



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/763,525 | 01/22/2004 | Erik David Florio | ERIK001 | 9214 |

7590 06/18/2007
Erik David Florio
444 Whispering Pines Drive, # 179
Scotts Valley, CA 95066

| |
|----------|
| EXAMINER |
|----------|

CARLOS, ALVIN LEABRES

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3709

| | |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

06/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,525

Applicant(s)

FLORIO, ERIK DAVID

Examiner

Alvin L. Carlos

Art Unit

3709

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 22 January 2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Objections

Drawings

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a web server 10a (paragraph 0027 lines 1 and 3) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

"gyequipment" (paragraph 0002 line 2) is believed to be in error for -- gym equipment -

-. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4, 6-7, 9, 11-12, 14-18 are rejected under 35 U.S.C. 102(a) and (e) as being anticipated by Holland 6607483 that teaches creating a database of information on plurality of trainers (column 5 lines 12-14), selecting a trainer from the plurality of trainers (column 12 lines 26-30), plurality of exercise routines that provides a result (column 7 lines 46-47), choosing a result to be achieved (column 5 lines 19-21), creating and presenting a sequence of exercise routines by selected trainer (column 5 lines 14-15, column 7 lines 47-48). Furthermore, Holland teaches the following:

Art Unit: 3709

choosing, selecting and presenting a plurality of area of interest for each skill level (column 6 lines 54-59,) includes choosing from the muscle groups that can be exercised (column 12 lines 62-65, column 13 lines 4-7), choosing and presenting a plurality of skill levels (column 3 lines 41-48), information on trainers (column 18 lines 35-54), choosing a physical result obtained from exercise routines that includes toning, firming, strength, Cardio (column 1 lines 56-64). In addition, Holland also teaches the following: presenting, providing means, enabling said user a plurality of navigational links to navigate through the application (column 5 lines 36-42, 46-50, 55-58), presenting, updating and reporting the user's information, progress and exercise routine (column 7 lines 7-11, 17-28, 46-62, column 9 lines 1-17), presenting a plurality of questions and answers (columns 14 lines 15-33), providing access to audio interface during exercise routine (column 4 lines 40-42), introduction on how to use the training application (column 5 lines 26-29), system includes personal computer, input device, output device, storage device (column 4 lines 45-51).

5. Claims 19-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Hinnebusch US Pub 20020055419 that teaches creating a database of information on plurality of trainers (paragraphs 0126 and 0304 lines 2-4), selecting a trainer from the plurality of trainers (paragraphs 0142), plurality of exercise routines that provides a result (paragraph 0010 lines 2-6, paragraph 0270 lines 6-7), choosing a result to be achieved (paragraphs 0052, 0136), creating and presenting a sequence of exercise

Art Unit: 3709

routines (paragraph 0017 lines 8-15, paragraph 0135 lines 2-4), and presenting the usage of gym equipment (paragraph 0263 lines 10-15) as disclosed and as claimed.

In addition, Hinnebusch also teaches the following: presenting and choosing a plurality of skill levels (paragraphs 0021 and 0077 lines 2-4), choosing a result includes selecting and presenting an area of interest for each level (paragraphs 0269 and 0270), presenting, providing means, enabling said user a plurality of navigational links to navigate through the application (paragraph 0251 lines 5-10), presenting an alternate gym equipment to exercise (paragraphs 0132 and 0211) and different exercise routine on area of interest (paragraph 0263 lines 11-13), presenting, updating and reporting the user's information, progress and exercise routine (paragraph 0017 lines 8-15), providing access to audio interface and allowing said user to play his/her own music of choice (paragraphs 0163, 0105 line 7), system includes personal computer (paragraphs 0017 line 5, paragraph 0263 line 3), input device (paragraphs 0131, 0156, 0176, 0270 lines 10-11), output device (paragraph 0247 lines 4-5, 9), storage device such as storage disk (paragraphs 0060, 0265-0266), storage memory (paragraph 0011, 0022 lines 16-18, paragraphs 0054, 0199), communication networks that include server host (paragraphs 0225-0226, 0256, 0260), system over internet (paragraphs 0049, 0067, 0073, 0249, 0251), system over communication network using wired communication (paragraphs 0247, 0260, 0262), and system over communication network using wireless communication (paragraph 0262).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holland 6607483 in view of Davis US Pub 20050039127. Holland teaches the claim limitations as discussed above. However, Holland fails to teach the following claim limitation taught by Davis; a plurality of area of interest includes graphically displaying the human anatomy and choosing an area of interest from the human anatomy display (paragraphs 0006 and 0007). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Holland's invention in order to provide an interactive training application that graphically displaying the human anatomy and choosing an area of interest from the anatomy display through variety of network configurations or a variety of media as taught by Davis (paragraphs 0040-0043).

8. Claims 8, 10, 13-15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holland 6607483 in view of Hinnebusch US Pub 20020055419. Holland teaches the claim limitations as discussed above. However, Holland fails to teach the following claim limitation taught by Hinnebusch; presenting the usage of gym equipment (paragraph 0263 lines 10-15), presenting an alternate gym equipment to

Art Unit: 3709

exercise (paragraphs 0132 and 0211), presenting, describing the function, operation of gym equipment, and order of the training on the gym equipment (paragraphs 0002, 0030, 0263 lines 8-13), presenting, providing means, enabling said user a plurality of navigational links to navigate through the application (paragraph 0251 lines 5-10), providing access to audio interface and allowing said user to play his/her own music of choice (paragraphs 0163, 0105 line 7). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Holland's invention in order to present an interactive training application and a user interface that provide utilize different access options (paragraphs 0071-0073, 0105).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, as per the attached Notice of Reference Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin L. Carlos whose telephone number is 571-2703077. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Fri. (alternate Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-2724828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3709

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC

6/14/2007



EHUD GARTENBERG
SUPERVISORY PATENT EXAMINEE

6/14/07